

CHAPTER 19
GENERAL ADMINISTRATION
[Prior to 11/5/86, Merit Employment Department [570]]

581—19.1(19A) State system of personnel. The state system of personnel administration is established by Iowa Code chapter 19A. The operational unit of the system is the department of personnel. The department of personnel is divided into two divisions, the personnel division and the IPERS division. Specific powers and duties of the department, its director, boards, task forces, advisory panels, and employees are set forth in Iowa Code chapters 19A, 19B, 20, 70A, 97A, 97B, 97C, and 509A; and these administrative rules.

19.1(1) Operational entities within the department are responsible for programs that include the development and administration of policies and procedures governing employee compensation (salaries and wages); benefit programs, including health, life, dental and disability insurance, unemployment and workers' compensation and deferred compensation and annuities; audit of payroll and other personnel transactions; professional personnel services to state departments; the communication of employment and personnel information to employees and supervisors throughout state government; the development and administration of policies and procedures concerning the recruitment, testing, and certification of personnel seeking employment or promotion; equal employment opportunity and affirmative action; and employee assistance, education, and training.

Responsibilities of the public employee retirement division include the development and administration of policies and procedures relative to the collection, disbursement, and investment of funds contributed to the retirement system by employers and employee members.

19.1(2) The director may establish other offices staffed by employees of the executive branch agencies in which they are employed to carry out the personnel management functions of the state personnel system. The functions performed and the services provided by these offices as well as the staff assigned to perform these functions are subject to policies set by the director.

19.1(3) The director has the statutory authority to designate an employee of the department to carry out the powers and duties of the director in the absence of, or the inability of the director to do so.

19.1(4) Information requests, materials submissions or inquiries concerning any operation or function of the department shall be addressed to the Director, Iowa Department of Personnel, Grimes State Office Building, East Fourteenth Street at Grand Avenue, Des Moines, Iowa 50319-0150. Telephone inquiry to the department may be made through listings provided in the City of Des Moines telephone directory or the Iowa Capitol Complex telephone directory.

19.1(5) Rescinded IAB 9/8/99, effective 10/13/99.

581—19.2(17A) Petition for declaratory order. Any person may file a petition with the department for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the department, at Department of Personnel, Grimes Building, 400 East 14th Street, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The department shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF PERSONNEL	
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	<div>}</div> PETITION FOR DECLARATORY ORDER

- The petition must provide the following information:
- 1. A clear and concise statement of all relevant facts on which the order is requested.
 - 2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
 - 3. The questions petitioner wants answered, stated clearly and concisely.
 - 4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
 - 5. The reasons for requesting the declaratory order and disclosure of the petitioner’s interest in the outcome.
 - 6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
 - 7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
- The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed.

581—19.3(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the department shall give notice of the petition to all persons not served by the petitioner pursuant to rule 19.7(17A) to whom notice is required by any provision of law. The department may also give notice to any other persons.

- 581—19.4(17A) Intervention.**
- 19.4(1)** Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.
 - 19.4(2)** Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the department.

19.4(3) A petition for intervention shall be filed at Department of Personnel, Grimes Building, 400 East 14th Street, Des Moines, Iowa 50319. Such a petition is deemed filed when it is received by that office. The department will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be type-written or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF PERSONNEL

Petition by (Name of Original
Petitioner) for a Declaratory Order on (Cite
provisions of law cited in original petition).

PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented in the original petition for declaratory order, and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

581—19.5(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The department may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

581—19.6(17A) INQUIRIES. Inquiries concerning the status of a declaratory order proceeding may be made to the director of the department at Department of Personnel, Grimes Building, 400 East 14th Street, Des Moines, Iowa 50319.

581—19.7(17A) Service and filing of petitions and other papers.

19.7(1) When service required. Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

19.7(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Department of Personnel, Grimes Building, 400 East 14th Street, Des Moines, Iowa 50319. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the department.

19.7(3) *Method of service.* Petitions for declaratory orders, petitions for intervention, and every paper relating to such petitions shall be served upon the department and each known party simultaneously with their filing. The party filing a document is responsible for service on all parties.

Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

19.7(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Director, Department of Personnel, Grimes Building, 400 East 14th Street, Des Moines, Iowa 50319, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

19.7(5) *Proof of mailing.* Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

_____ (Date) _____ (Signature)

581—19.8(17A) *Informal meeting.* The department may schedule a brief and informal meeting between the original petitioner, all intervenors, and the department, a member of the department, or a member of the staff of the department, to discuss the questions raised. The department may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the department by any person.

581—19.9(17A) *Action on petition.*

19.9(1) Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the director or designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13(5).

19.9(2) The date of issuance of an order or of a refusal to issue an order shall be the date of mailing of a decision or order, or date of delivery if service is by other means, unless another date is specified in the order.

581—19.10(17A) *Refusal to issue order.*

19.10(1) The department shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

- a. The petition does not substantially comply with the required form.
- b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department to issue an order.
- c. The department does not have jurisdiction over the questions presented in the petition.
- d. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
- e. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.

g. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.

i. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.

j. The petitioner requests the department to determine whether any of the conditions under Iowa Code section 17A.19 as amended by 1998 Iowa Acts, chapter 1202, section 24(10), have been met.

k. The department will not issue declaratory orders on the following:

- (1) The present value of IPERS retirement monthly benefits;
- (2) Actuarial assumptions used or proposed to be used by the department;
- (3) The impact of proposed legislation;
- (4) Issues which require the disclosure of confidential information; and
- (5) Items listed in 581—26.1(17A).

19.10(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

19.10(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

581—19.11(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

581—19.12(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

581—19.13(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the department, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department. The issuance of a declaratory order constitutes final agency action on the petition.

581—19.14(17A,19A) Petition for rule making.

19.14(1) Filing. Any person or agency may file a petition for rule making with the director. A petition is deemed filed when it is received in the department. The director shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides an extra copy for that purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BEFORE THE
DEPARTMENT OF PERSONNEL

Petition by (Name of Petitioner)
for the (adoption, amendment, or repeal)
of rules relating to (state subject matter).



PETITION FOR
RULE MAKING

The petition must provide the following information:

- a. A clear statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
- b. A citation to any law deemed relevant to the department’s authority to take the action urged or to the desirability of that action.
- c. A brief summary of petitioner’s arguments in support of the action urged in the petition.
- d. A brief summary of any data supporting the action urged in the petition.
- e. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.

19.14(2) Content. The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and the petitioner’s representative, and a statement indicating the person to whom communications concerning the petition shall be directed.

19.14(3) Denial. The director may deny a petition because it does not substantially conform to the required form.

19.14(4) Briefs. The petitioner may attach a brief to the petition in support of the action urged. The director may request a brief from the petitioner or from any other person concerning the substance of the petition.

19.14(5) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the director at the offices of the department.

19.14(6) Consideration.

- a. The director may request the petitioner to submit additional information or argument concerning the petition. The director may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the director by any person.
- b. Within 60 calendar days after the filing of the petition, or within any longer period agreed to by the petitioner, the director shall, in writing, deny the petition and notify the petitioner of that action and the specific grounds for the denial, or grant the petition and notify the petitioner that rule-making proceedings have begun.

The petitioner shall be deemed notified of the denial or granting of the petition on the date the notification is mailed.

- c. Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the director’s rejection of the petition.

581—19.16(19A) Drug use and drug tests.

19.16(1) Policy. Employees shall not report to work while under the influence of alcohol or illegal drugs. The unauthorized use, possession, sale, purchase, manufacture, distribution, or transfer of any illegal drug or alcoholic beverage while engaged in state business or on state property is prohibited. Employees who violate this policy are subject to disciplinary action up to and including discharge.

19.16(2) Definition and applicability.

a. “Drug test” means any blood, urine, saliva, chemical, or skin tissue test conducted for the purpose of detecting the presence of a chemical substance in an individual. These rules authorize only the use of urinalysis tests for this purpose. Other methods of drug testing are prohibited.

b. These rules do not apply to drug tests required under federal statutes, drug tests conducted pursuant to a nuclear regulatory commission policy statement, or drug tests conducted to determine if an employee is ineligible to receive workers’ compensation under Iowa Code section 85.16, subsection 2.

19.16(3) Preemployment drug tests. A urinalysis drug test may be performed as part of a preemployment physical only for department of corrections correctional officer positions. Application materials for these positions shall include clear notice that a drug test is part of the preemployment physical. Requirements for these tests are as follows:

a. A urine sample will be collected during the preemployment physical examination.

b. The sample container will include identification for chain of custody purposes that does not include any part of the applicant’s name or social security number.

c. The container will be transported directly from the site of the physical examination to a laboratory or other testing facility. Samples may be transported via certified mail or courier service.

d. The sample will be tested and retained by the laboratory or other testing facility for a minimum of 30 days. The applicant may have the sample analyzed, at the applicant’s expense, by a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

e. Each drug test will include an initial screen and a confirmation of positive results. The initial screening test may utilize immunoassay, thin layer, high performance liquid or gas chromatography, or an equivalent technology. If the initial test utilizes immunoassay, the test kit must meet the requirements of the Food and Drug Administration. All confirmation tests will be done by Gas Chromatography - Mass Spectrometry (GC-MS) at a laboratory or other testing facility approved in accordance with the administrative rules of the department of public health.

f. At a minimum, tests will screen for marijuana, cocaine, and amphetamines.

g. Procedures for obtaining, sealing, identifying, transporting, storing, and retention of samples shall protect the chain of custody and the viability of the sample, and shall comply with department of public health administrative rules.

h. The laboratory or other testing facility shall report the results of the drug tests to the appointing authority. The confidentiality of the information shall be protected by all parties.

i. The appointing authority shall provide an applicant an opportunity to rebut or explain the results of a positive drug test by administering a pretest questionnaire or arranging a posttest conference with the applicant.

j. A positive confirmation drug test will disqualify an applicant from further consideration and hire for department of corrections correctional officer positions.

19.16(4) Employee drug tests. Drug testing of employees is prohibited except as provided in sub-rule 19.5(2), paragraph “b.”

These rules are intended to implement Iowa Code chapter 17A amended by 1998 Iowa Acts, chapter 1202.

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